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# INTERNATIONAL JOURNAL OF ETHICS.

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## THE NATURE AND SIGNIFICANCE OF MONOPO- LIES AND TRUSTS.\*

THE subject upon which I have been asked to speak to you is a large one, and it is possible to do nothing more than to bring before you a few leading thoughts concerning the nature of monopolies and trusts, and to point out in a general way what seem to me to be correct lines of public action with reference to the problems which industrial evolution has presented to us in these portentous formations.

First of all, it is essential that we should have a clear idea of monopoly as a starting point. To use the language of the philosopher Locke, the word monopoly is a sign standing for an idea. What is that idea? Unless we know exactly what it is that we are talking about when we are discussing monopoly, our own thought will be confused, and the confusion will be multiplied many fold when the discussion becomes general. There can be no doubt that in economic literature, as well as in the periodical press, this one word-sign "monopoly" has been made to stand for many different and more or less antagonistic ideas; and, as a consequence, the controversies in which we have been engaged concerning monopoly have produced com-

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paratively little action and even less light. I must say very frankly that, in my opinion, the economists are quite largely responsible for the confusion of thought which has been introduced into the discussion of monopoly; for, extending the term to cover related but quite different economic concepts, they have departed from the best usage of the English language. The courts in their decisions have not gotten so far away from the correct use of language, but their decisions also show confusion of thought, due to the fact that they have frequently attempted to introduce ideas appropriate to the seventeenth century into the latter part of the nineteenth, without that modification which the mighty industrial evolution of three centuries has necessitated.

To what do we oppose most sharply the word monopoly in our thought? I think you will at once answer, competition. Monopoly is the opposite of competition. Competition means, among other things, rivalry in the offer of services or commodities. When each one of two or more persons seeks to induce us to purchase of him, and not of the others, services or commodities which he has for sale, we have a condition of competition. Whenever, on the contrary, we have only one seller we have a condition of monopoly; and we have only one seller when all those who have services or commodities of a particular kind for sale have so bound themselves together that they act as one man. What has been said with respect to sales would hold equally true with respect to purchases. It is unity in some one kind of business which gives us monopoly. I offer then this definition of monopoly, which seems to me to accord with good English usage: *Monopoly means that substantial unity of action on the part of one or more persons engaged in some one kind of business which gives exclusive control more particularly, although not solely, with respect to price.*

It is not possible at this time and place to comment at such length as I would like upon this definition. One or two things, however, I must say. What is essential is control over price. The other things which monopoly carries with it flow from such control and are not secure without it. In the second place, I must emphasize the fact that absolute unity of action

is not requisite. The essence of monopoly is *substantial and controlling* unity of action, and this is given when a combination of men acting together as a unit have a dominating position over the sale of some one kind of commodity or service. Mr. Havemeyer, President of the American Sugar Refining Company, at one time said that a man producing eighty per cent. of the product had such a position. The percentage, however, is a variable one.

The definition which I have given of monopoly brings before us its social significance in several most important particulars. As it is the opposite of competition, so the protection which competition gives to society is removed by monopoly. The theory of competition is that we are protected against unreasonable demands by the rivalry existing among competitors. The farmer who is tempted to ask an exorbitant price for his potatoes is held in check by his neighbors who have potatoes which they likewise desire to sell. The retail merchant who places an excessive valuation upon his services finds that his rivals, more moderate in their demands, take away his customers from him. This is all simple enough, but it has a profound meaning which has made a deep impress upon English common law. Competition has been regarded for ages as the corner-stone of our industrial order, while monopoly has been held to be a menace to that order. The decisions of courts, both in our own country and England proceed upon the hypothesis that competition is the palladium of our industrial liberties. It is true that competition is the corner-stone of our present social order. If competition is removed something else must be put in place of it. It is because this truth has been so clearly grasped by socialism, and because socialism does propose to put something else in the place of competition, that the logical position of socialism has proved so strong. It is essential that we should clearly grasp the fact that we must have competition or something else in the place of it. If this is so, the popular apprehension in regard to the growth of monopoly does not exaggerate its significance, however confused and perplexed public opinion may be in other particulars.

The next question which suggests itself naturally is this: to

what extent does monopoly actually prevail? Has competition been replaced to such an extent that the competitive order has been seriously disturbed? If we cannot give a precise and definite answer to the first question, there can be no doubt that the second question calls for a decided affirmation in reply. Appeal may be made to the common familiar experience of all. We continually run up against monopoly in one way and another, and we feel that we lack the protection which full and free competition would afford. It may be that we have to do practically with one employer wherever we seek work. It may be that in the sale of our product we encounter purchasers so allied that they act as one man. It may be that in our own purchases of service we feel ourselves powerless because we are pitted against vast combinations of interests which are completely unified. Probably there is no one now listening to my words who has not felt himself hurt and aggrieved by what he deemed the conscienceless action of monopoly. We may, however, approach the subject more analytically and scientifically if we examine into the classification and causes of monopoly. I cannot undertake to go into this subject fully on the present occasion. If it be not improper to refer to my own book on "Monopolies and Trusts," I may say that I have there given seven different classifications of monopolies, each one from its own point of view, and that all seven classifications in my opinion have their significance. I attach most importance, however, to the second classification, which is as follows:

(a) Social Monopolies.

I. General Welfare Monopolies.

1. Patents.
2. Copyrights.
3. Public Consumption Monopolies.
4. Trade-marks.
5. Fiscal Monopolies.

II. Special Privilege Monopolies.

1. Those based on Public Favoritism.
2. Those based on Private Favoritism.

(b) Natural Monopolies.

- I. Those arising from a Limited Supply of Raw Material.
- II. Those arising from Properties Inherent in the Business.
- III. Those arising from Secrecy.

The purpose which I have in presenting this classification of monopolies is to bring before you, by the analysis which it presents, the wide sweep of monopoly in modern industrial society. I think the simple enumeration itself does that, even without explanation of the various classes and sub-classes. I will add, however, just one or two words about a few sub-classes, in order that you may know what I have in mind.

Public Consumption Monopolies are monopolies designed to regulate consumption beneficially; either to promote some desirable consumption or to restrict and confine within limits deleterious and injurious consumption. The alcohol monopoly of Switzerland and the South Carolina dispensary system afford illustrations. Fiscal Monopolies are monopolies which are created primarily in the interest of the public treasury. The tobacco monopoly of France affords the best illustration. Monopolies based on public favoritism are monopolies which are due primarily to the action of public authority exerted in the interest of favorites. The old Tudor monopolies, against which protest was made so frequently in our early Constitutions, afford abundant illustrations. Hume gives a vivid description of them in the reign of Elizabeth in his "History of England." Private Favoritism Monopolies are businesses not naturally monopolistic which have become monopolies by virtue of an alliance with another monopoly, especially a natural monopoly, whereby they partake of the properties of the latter. Here special reference is made to the favoritism of railways, which has been so potent a cause of monopoly in the United States. This is well known probably to most of you, and so far as the sceptical are concerned I would in this place simply refer to the reports of the Interstate Commerce Commission.

Those monopolies arising from properties inherent in the business are those ordinarily designated as natural monopolies, although I make them simply one sub-class under the general term. They are railways, telephones, gas works, etc.

It is hardly too much to say that the value of all monopolized businesses in the United States more probably exceeds a sixth of the entire valuation of property in the United States than falls short of this proportion.

If we have now a clear idea of what monopoly means, and of the extent to which it prevails, the next question which naturally suggests itself is this: What precisely is the power of monopoly? The specific power of monopoly is that which arises from unified action on the part of the monopolists. It is especially, although not exclusively, a power over price, and has been felicitously described by a German economist as unified tactics with respect to price. We should, however, in connection with our inquiries into the power of monopoly, give attention to the other things than the power to raise price which monopoly carries with it. This is especially important inasmuch as almost exclusive attention has been directed to the power of monopoly to raise price. The one who is a monopolist, as he has exclusive control over his products, can, for that very reason, withhold supplies or services or furnish them irregularly. If we examine into the power of railways to help forward their favorites and to crush those whom they will, we must not think by any means merely of freight rates. If rates are uniform, but of two competitors one always receives cars when he wants them and the other has difficulty in securing cars for shipment, if the freight of the one is forwarded promptly while the freight of the other is frequently sidetracked, this alone will sometimes be sufficient to build up the one and to ruin the other. But in addition to the power to raise price, we must also take into account the power to lower price which is often equally effective. If, after I get in my supplies, you, my rival, order yours and secure transportation at lower rates, you have an advantage over me which may prove sufficient to enable you to drive me from business. How easy it is for those in a secret combination to aid one another with advance information concerning changes in monopolistic prices! And frequently it will make no difference whether prices are to be raised or lowered.

It is true, however, that what we have to consider principally in the case of monopoly is the high profits which the monopolist can secure. It is this excess of price especially which is of vital significance in the distribution of wealth. It has long been said that the monopolist charges that price which enables him

to secure the highest net returns. The monopolist having control over supply may in one way charge what he pleases, as the courts so often state that he does. He must, however, charge a price which will enable him to dispose of his product. He does have control over supply, but he does not have control over consumption. If people refuse to buy his service or commodity he has no sales and no profits. He must reduce prices until he has that combination of sales and profits on each sale which will give him the highest net returns.

This is all more or less familiar ground, but there is something that is still more fundamental, and that I have endeavored to formulate in a new law of monopoly price, which is as follows: *Other things being equal, the greater the intensity of customary use, the higher the general average of economic well-being, and the more readily wealth is generally expended, the higher the monopoly charge which will yield the largest net returns.* The significance of the intensity of customary use is something into which I cannot now enter; but I wish to direct your attention particularly to the other features of this law of monopoly price. The higher the general average of well-being, other things being equal, the higher the price which people will pay for commodities or services rather than go without them. Consequently, this furnishes the monopolist with an opportunity for greater gains than those which could be reaped in a country with a lower average of well-being. Similarly, the more readily people spend money, the higher will be the price which will yield largest net returns, because the higher the price which people will pay for commodities or services rather than forego their enjoyment. We find these two conditions in high degree meeting together in the United States, and this explains why it is that monopoly is so especially profitable in the United States. Probably there is no country in the world in which monopoly if let alone yields such large returns as in our own country. Again, there is no other country among the great civilized nations of the world in which monopoly has been so let alone, so far as any real effective control is concerned, as it has been in the United States. We have then in the law of monopoly price a partial explanation of the



vast concentration of wealth in the United States. We have abundant illustrations on every hand of the vast fortunes which monopolistic pursuits have yielded in our country, and we have an explanation of them which will, I think, appeal to you, and which indeed, in my opinion, will grow upon you the more you think about it. I may take as an illustration, street-car fares in our own country and in other countries. I believe there is evidence going to show that the price for street-car service in our great American cities which yields the largest net returns to the street-car monopolist is five cents. Apart from all legislative control, I do not believe that in our great cities it is in the interest of the owners of street-car property to charge more than five cents. With our high average of well-being and our readiness in the expenditure of money a five-cent fare reaches down into the masses of the people. Doubtless it is too high a fare for the lowest social strata, and yet it reaches so far down that in all probability the increase in traffic from a lower fare would not offset the loss in profit on each passenger transported. I believe in a country like Germany a five-cent fare would be too high to yield the largest net return to the monopolist, inasmuch as with the lower general average of economic well-being and the greater frugality a fare so high would not reach down far enough into the masses of the people to induce a sufficiently large traffic to be most remunerative. The fare in Berlin for one of their zones is ten pfennigs or two and four-tenths cents, and I am strongly inclined to think that that is the fare which, apart from legislation, would yield the largest net returns. Our telephone service affords another illustration. I am strongly of the opinion that in a city like Berlin the charges for telephone service which large numbers pay in New York and Chicago would so reduce the use of the telephone that it would not be highly remunerative.

Our discussion of monopolies has brought before us the evils of monopoly. It may be well to add, in further elucidation of these evils, a quotation from a leading English case known as the Case of Monopolies. It is the case of *Darcy vs. Allein*, of 1602. The court stated the evils of monopoly in these words:

"First. The price of the same commodity will be raised, for he who has the sole selling of any commodity, may and will make the price as he

pleases. . . . The second incident to a monopoly is that after the monopoly granted the commodity is not so good and merchantable as it was before; for the patentee, having the sole trade, regards only his private benefit, and not the commonwealth. Third. It tends to the impoverishment of divers artificers and others, who, before, by the labor of their hands in their art or trade, have maintained themselves and their families, who now will of necessity be constrained to live in idleness and beggary."

This exposition of evils has been very frequently endorsed by American courts, and one of these courts adds this comment upon the third ground mentioned :

"The third objection, though frequently overlooked, is none the less important. A society in which a few men are the employers and the great body are merely employés or servants, is not the most desirable in a republic; and it should be as much the policy of the laws to multiply the numbers engaged in independent pursuits or in the profits of production as to cheapen the price to the consumer. Such policy would tend to an equality of fortunes among its citizens, thought to be so desirable in a republic, and lessen the amount of pauperism and crime."

We have then, on the one hand the oppression and tyranny which must flow from monopoly in a society composed of human beings, and on the other hand we have the inequalities in opportunity which discourage effort in two directions. Those who have these exclusive opportunities are not so alert and active as they would be otherwise, inasmuch as they rely upon monopoly rather than upon excellence and energy in their economic efforts, while those who find themselves so handicapped in the race for economic well-being are apt to become listless and indifferent as the result of discouragement. I am speaking now not about what happens in the early days of monopoly, but what must happen in the long run as the result of well-known principles of human nature. We have then, as a further outcome of the evils already mentioned, a degree of concentration of wealth which affords to some, opportunities for indulgence of every whim and caprice, with wild extravagance as the result, while others lack the opportunities for a full and harmonious development of their faculties. I cannot go into this further in the time allotted to me, but I claim that history furnishes abundant evidence of the pernicious social effects of wanton luxury confronted by poverty. I refer you

to Lecky's "History of European Morals" for a conservative statement of the ethical consequences of a distribution of wealth brought about by monopoly, and I refer you to that great thinker, Aristotle, whose wise words still have deep meaning, for a discussion of the difficulties of uniting wide extremes in the distribution of wealth with political democracy. I do not think, then, that our courts at all exaggerate the dangers of monopoly, even if they do not always clearly see the direction in which remedies must be sought.

Before I pass on to a discussion of remedies, you may very properly say to me: You have entitled your address "Monopolies and Trusts," but you have not yet said a word about Trusts. The reason why I have said nothing about trusts is because, in the strict sense of the word, there is no such thing as a trust problem. Until we have this clearly in mind, we can make no progress in our discussion of monopolies and trusts. The trust in itself is no problem. But do not misunderstand me. When men talk about trusts they are discussing real and vital problems, and analysis will show that in so far as the discussion of the trust problem is an intelligent discussion it resolves itself into three problems: first of all and chiefly a monopoly problem, secondly a problem of concentration of production, and thirdly a problem of wealth concentration,—quite a different thing from the problem of concentration of production. Concentration of production means large-scale production. It means the great factory and the mammoth department store. Concentration of production has its own problems, but they may coëxist with the keenest competition, as it usually does in both the cases I have mentioned. Large-scale production, when it comes about as the result of the free play of economic forces, is justified by its efficiency. When it is able to maintain itself in a fair field without favors it gives a large return for expenditures of capital power and human labor power. It adds thus to the provision for human comfort and should be no more antagonized than machinery should be. The real problem is to utilize it fully while reducing to a minimum any evils incident to it. Many of the evils which large-scale production originally brought have already been mitigated by humane legislation which has regu-

lated conditions of employment. I refer especially to what is popularly known as factory legislation, which prohibits the employment of young children and regulates beneficially sanitary conditions surrounding wage earners and otherwise helps them to maintain wholesome conditions of life. Other evils which concentration of production has brought are those which investors have suffered on account of dishonest management of great enterprises, and for this, relief must be sought in the improvement of our law governing private corporations. About this remedy I will have a word to say presently.

The concentration of wealth is a different problem, because with widely diffused wealth through the private corporations we may have a high degree of concentration of production.

I will now take up remedies and discuss them in the fewest possible words, for I cannot hope to do more than throw out here and there a suggestion. First of all, you are doubtless already prepared for the statement that I have not the slightest confidence in any measures which forbid the growth of business or combinations on the part of persons engaged in business when they find it advantageous for them to enter into combinations. The so-called anti-trust legislation, in my opinion, has produced harm and can produce nothing but harm. So far from lessening the concentration of production, it has rather increased it. Looser forms of combination in the face of anti-trust legislation have made way for closer and more effective unions. How these are to be prevented while the laws of private property are still maintained, is something which I for my part cannot well understand. Nor do I see precisely what it is hoped will be accomplished by the sort of legislation which has been tried in so many of our States and also by our Federal Government. It does not at all deal with causes, but touches only surface phenomena. We must go down far enough to reach underlying causes if we would accomplish any results.

Among remedies, first of all I would mention education. I would have general education so developed as to prepare every boy and girl for life. I would have the same earnest attention given by our commonwealth to the education of our youth for civic life, which Germany gives to the preparation of her young

men for military life. If the best brains of the country were earnestly devoted to the preparation of our young people for civic life, and money was as freely expended for this preparation, as in Germany for the army, we would have wonderful results. We have a struggle for life. This it is not desirable to abolish. It is desirable to give for it the most thorough preparation. I have spoken about general education. I would have in addition a training in economics which would lift to a higher plane our economic discussions and would render impossible the serious consideration which is so often given among us to quack remedies for economic evils.

In the second place, we must take up earnestly the problem of natural monopolies. The time has gone by for a discussion of the question, Shall monopolies be publicly controlled or not? The principle of control is accepted by every thinking person and is a well-recognized principle of jurisprudence in every civilized land. The question which has not been fully decided is this: Shall we have public control of private property interests in undertakings which fall under the head of natural monopolies, or shall social control be an outcome of public property with public management? To put it more concretely, Shall we have private gas works with a State Gas Commission to exercise control over them, as in Massachusetts, or shall we have municipal gas works and allow social control to proceed naturally and spontaneously from municipal ownership and management? Shall we maintain our private railways and attempt to control them through a further development of State Railway Commissions and the Interstate Commerce Commission, or shall we have public ownership with public operation? We must take the one alternative or the other, and either one is beset with immense difficulties. I cannot now undertake to state which method of social control seems to me to promise in the long run the best results. In either case the ends to be achieved are similar, and there is not so much room for controversy concerning these ends as there is for controversy concerning the methods whereby they are to be attained.

We must bring it about that those who own and manage such businesses as gas works, railways, and the like—that is,

if we are to retain private property in these enterprises—have no advantage over those engaged in other kinds of business. We must have no privileged classes composed of monopolists. We must not think that in the abolition of politically privileged classes we have accomplished the abolition of special privileges. Economic privileges are of greater significance than political privileges, and we may have privileged classes although they do not go by the name of duke and lord ; they may be simply magnates and kings, as gas magnates and railway kings. Through social control, property and enterprise invested in monopolistic businesses must be placed on the same footing with property and enterprise invested in competitive businesses. It is idle to claim that such is the case now, when franchises for which no one has toiled in any honorable and legitimate way yield to their owners millions upon millions of dollars of unearned wealth.

In the next place, it must be brought about that those who have dealings with monopolistic enterprises are fairly and impartially treated. Tyranny and oppression, whether directed against the general public or employes, must be abolished. War must be waged upon monopolies founded on private favoritism until they become a thing of the past. They must take their place in history alongside of monopolies granted by the Tudor kings to their favorites.

The third class of remedies is found in the regulation of the transmission of property from generation to generation, and this must be brought about in part by taxation, in part by laws which aim otherwise to secure a wide diffusion of wealth. A very strong movement in this direction has already set in and it deserves encouragement. I say this, although I cannot just now undertake to explain what in my opinion is its full significance as an anti-monopoly measure. I believe, however, that it is entirely safe to say that it will accomplish infinitely more in this direction than all the constitutional prohibitions of trusts which have ever as yet been suggested.

I mention tariff reform as a fourth remedy, attaching, however, far less importance to it than many others do. Wherever monopoly clearly rests upon the tariff I am prepared to endorse a reform of the tariff.

The fifth measure of reform which I recommend is the reform of the patent law. Not an abolition, be it understood, but such a reform along well-approved lines as will render patents of less significance as a foundation of monopolies. It is quite practicable to accomplish this end and still maintain a patent system which will afford as great a stimulus to invention as does our present patent law.

The sixth line of reform is one which is still more important, and that is the reform of the law of private corporations. I have already mentioned this subject. As coöperation takes place so largely through private corporations, which afford to persons of the smallest means opportunities for participation in the largest enterprises, I have no sympathy with any proposal to abolish or limit private corporations. I would, however, bring them under effective public control, the sole purpose of which should be honesty and individual responsibility. To secure this, several things are needed. One is complete publicity, with such extension of the criminal law as would send to the penitentiary as quickly the man guilty of theft through the medium of a corporation as the man guilty of theft in his individual capacity. We need, for effective control, Bureaus of Corporations in our States, and I am prepared to endorse the proposal for an Interstate Bureau of Corporations, even if it involves a change in the Federal Constitution. As a model for the general law of incorporation, I would recommend the national banking act, although I recognize that to adapt this to manufacturing and commercial purposes a few minor changes would be necessary.

I have touched upon the main classes of remedies which in my opinion are needed to meet the present situation. I have, while advocating an extension of governmental activity along several lines, recognized as desirable a large competitive field in which it is socially beneficial to allow a wide scope for the spontaneous play of economic forces. I reject decidedly plans for detailed public control of private business in general, and consequently I am unable to endorse the recommendation of various economists that a commission should be appointed to regulate trusts. If we deal adequately with the causes of

monopoly, I do not believe that we need entertain apprehensions concerning the concentration of business.

As regards the peculiarly ethical aspects of my subject, I would say, first of all, that as rational beings we must endeavor to understand what we are about before we undertake important public action. We need light for guidance as well as heat as a motive power. Another thought is this: We need purity of purpose to see the light. Every ethical teacher recognizes the heart as an organ of light. This is another side of the truth "none are so blind as they who will not see." We who occupy positions of privilege must not allow our privilege to blind us to the rights of others.

Another ethical thought is, that we must rely for social improvement upon social self-help. Despotism, either industrial or political, is something which is not beneficial in a civilized community. In certain low stages of evolution, despotism, both political and industrial, may be necessary, but only as a transitional stage making way for something higher. If we could have a good despot in political life, he would do many things for us which we cannot at once do for ourselves. Similarly, the despotism of monopoly can accomplish some things which it is not easy at once to achieve through social self-help. We do not on that account, however, any more desire despotism in the latter case than in the former. To paraphrase an utterance of the Ohio Supreme Court, experience shows that we dare not trust human nature when through monopoly it has a chance to grow fat at the cost of others.

Finally, while it does not seem to be in the order of nature that we should be able to rely on a privileged class to do for us things which as a society we want to have done, individuals in the privileged class may rise above their class and enter the service of society. Great leaders of men, especially those who have been great reformers, have frequently been individuals who have risen superior to their class and have used their position of privilege not for themselves, but for others. When one of the privileged class thus conscientiously takes upon himself the burdens of the unprivileged, he has a power which is commensurate with his privileged position. It behooves us,



then, who are privileged to toil for the non-privileged, and especially to see to it that a fair and open field for discussion and reform is maintained. Here and there we have evidences of a desire on the part of the privileged classes to hem in and limit freedom of discussion, and to oppress those who would show us the way to better things. One of the strongest ethical obligations resting upon us at the present time is to spread the light which we have, and to fight with all our powers to maintain a wide open way for those who would bring us a fullness of light which we do not now enjoy.

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## THE ETHICS OF EXPANSION.

THE discussion of the ethics of the new expansion policy of the United States seems to have suffered much from uncertainty in its fundamental assumptions. By what criterion are we to judge the ethics of larger human relations? Some quote Scripture or other venerable authority, only to be met by a counter-quotation, and the effort to determine who has wrested the Scripture to his own destruction brings back the original question. Others apply the rules governing individual relations and construe the commands against killing and theft into prohibitions of war and conquest. But are the cases really analogous? This is the original question in another form. As usual, we make no progress by elaborating primary equivocations. Very much recent argument seems to have been of this character. This is my excuse for calling brief attention to certain primary truths which are generally accepted as principles and regularly ignored in their practical applications.

Wherever there is life there is growth, and wherever there is growth there must sooner or later be competition. Inevitably the stronger forms of life displace the weaker and progress is the result. Progress is nothing else, can be nothing else in nature, than the substitution of the more efficient for the less efficient forms of life. This process, too, is one in which we